

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOEL ANDERSON, Class Representative
for #1 John Anonymous, et al.,

Plaintiffs,

v.

9:08-CV-0793

THE NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES, et al.,

Defendants.

THOMAS J. McAVOY
United States District Judge

DECISION and ORDER

This matter brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Randolph F. Treece, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

No objections to the October 9, 2008 Report-Recommendation have been raised. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein.

It is, therefore, ORDERED that:

- (1) the motion for class certification is DENIED;
- (2) the request by the Five Anonymous plaintiffs to proceed under a pseudonym is DENIED WITHOUT PREJUDICE;
- (3) the individuals identified at DKT NOS. 9, 10, 11, 12, and 13 be DISMISSED from this action unless, within thirty days from the date of this Order, they submit both: (i) a signed,

fully completed and properly certified in forma pauperis application; and (ii) the inmate authorization form issued by the Clerk's office;

(4) unless the other individuals comply with the requirements of this Order, this matter shall proceed on behalf of Plaintiff Anderson alone;

(5) the Clerk shall issue Summonses and forward them, along with copies of the Complaint, to the United States Marshal for service upon the Defendants. The Clerk shall forward a copy of the Summons and Complaint to the Office of the New York State Attorney General, and the Ulster County Attorney, Joshua Koplovitz, at P.O. Box 1800, Kingston, New York 12402, together with a copy of this Order;

(6) the Clerk provide the Superintendent of the facility, designated by Plaintiff as his current location, with a copy of Plaintiff's Inmate Authorization Form (Dkt. No. 7), and notify the official that this action has been filed and that Plaintiff is required to pay the entire statutory filing fee of \$350.00 pursuant to 28 U.S.C. § 1915;

(7) the Clerk provide a copy of Plaintiff's Inmate Authorization Form to the Financial Deputy of the Clerk's Office;

(8) a response to Plaintiff's Complaint be filed by the Defendants or their counsel as provided for in the Federal Rules of Civil Procedure after service of process on the Defendants;

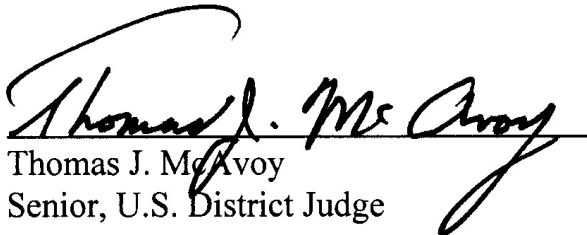
(9) all pleadings, motions and other documents relating to this action be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of same was served on all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a proper certificate of service will be returned,

without processing. Plaintiff must comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions. Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel of any change in Plaintiff's address; his failure to do so will result in the dismissal of this action; and

(10) the Clerk serve a copy of this Order on Plaintiff by regular mail.

IT IS SO ORDERED.

Dated: April 17, 2009


Thomas J. McAvoy
Senior, U.S. District Judge